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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,031	04/14/2004	Martin Maasz	04260424	7379

7590 10/29/2004

Richard A. Speer  
MAYER, BROWN, ROWE & MAW LLP  
P.O. Box 2828  
Chicago, IL 60690-2828

EXAMINER

MILLER, CARL STUART

ART UNIT	PAPER NUMBER
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3747

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/825,031	Applicant(s) MAASZ, MARTIN	
	Examiner Carl S. Miller	Art Unit 3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/29/04</u> . | 6) <input type="checkbox"/> Other: ____  |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Fischerkeller.

In particular, the jet pumps are fed from pickups (86) which can back up if the pressure goes too high in the line (82) thereby relieving the pressure in the surge tank(s).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischerkeller in view of Laue.

Fischerkeller applies as noted above and Laue, at Figure 8, teaches the well-known use of a pressure regulator to feed a jet pump feeding, in turn, a surge tank.

Since the return flow of a regulator is adequate to drive a jet pump large enough to keep a surge tank filled, it would have been obvious to feed the jet pump Fischerkeller in this way.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischerkeller in view of Sinz (U.S. '342).

Sinz teaches the jet pump arrangement of this claim thereby making this an obvious way to balance the tanks.

Claim 4 (as understood) is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischerkeller in view of Sinz (DE ('967)).

In Sinz ('967) the two jet pumps feed a common reservoir that, in turn, feeds both surge tanks. The applicant should note that this claim appears inconsistent with claim 3 from which it depends. Applicant should address this issue in his response. The examiner has not rejected this claim under 35 USC 112 at this time in order to give the applicant an opportunity to explain how this apparent inconsistency might not exist.

Claims 5-6 and 8/5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischerkeller and Coscia.

Coscia teaches a surge tank that includes a cup-shaped base and a top which appears to clip on and includes a seal below the top thereby making this an obvious way to seal the surge tanks of Fischerkeller.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischerkeller and Coscia as applied to claim 5 above, and further in view of Andreasson.

Andreasson teaches a porous cup-shaped surge tank (Figure 2) which would inherently be capable of swelling to help seal the tank.

Claim 8/7 rejected under 35 U.S.C. 103(a) as being unpatentable over Fischerkeller and Coscia as applied to claim 7 above, and further in view of Andreasson.

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All of the references apply as noted above.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl S. Miller whose telephone number is (703) 308-2653. The examiner can normally be reached on MTWTHF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen, can be reached on 703-308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Carl S. Miller  
Primary Examiner